

## REMARKS/ARGUMENTS

The Applicants hereby thank the Examiner for the observations in the outstanding Office Action. Independent Claims 1, 10, 15, and 16 are herein amended and dependent Claims 13 and 14 are herein canceled, without prejudice, to better encompass the full scope and breadth of the present invention, notwithstanding the Applicants' belief that the Claims would have been allowable as originally filed as well as herein amended. The foregoing amendments are believed to be fully supported by the priority document, U.S. Provisional Patent Application Serial No. 60/520,752, entitled "Ring Interface for TV Programming Guide," filed on November 17, 2003. The Applicants respectfully assert that no claim has been narrowed within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.* (Fed.Cir. November 29, 2000). Therefore, reconsideration of the present application in light of the foregoing amendment and these remarks is respectfully requested. However, should any remaining issues be outstanding, the Examiner is respectfully requested to telephone the undersigned at (805) 781-2865 so that such issues may be resolved as expeditiously as possible.

### **I. Rejection of Claims 1-2, 8-13, 15, and 16 under 35 U.S.C. §103(a)**

Claims 1-2, 8-13, 15, and 16 stand rejected, under 35 U.S.C. § 103(a), as being unpatentable over Ellis et al. (US 2004/0117831), in view of Robarts et al. (US 2005/0278741), and in further view of Wilder et al. (US 2003/0051246). Independent Claims 1, 10, and 15 are herein amended to include the following limitations: "providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user[,]]" "wherein the plurality of cascading filters simultaneously considers content across the plurality of media," and "automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time[.]" Independent Claim 16 is herein amended to include the following limitations: "providing a plurality of cascading filters for facilitating determination of

a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user[,]” and “wherein the plurality of cascading filters simultaneously considers content across the plurality of media[.]” Dependent Claim 13 is herein canceled, without prejudice, thereby rendering moot its ground for rejection on this basis. The Applicants respectfully traverse these grounds for rejection on this basis.

With respect to the primary cited reference, Ellis merely discloses “[a] system for providing *interactive television program guide features and other features and information related to a specific user interest or programming category in niche hubs* is provided. All of the television programming features provided by user television equipment that relate to a specific user interest or programming category may be accessed from the niche hub. For example, a movie lovers niche hub may provide *programming features such as television program listings for movies, video-on-demand listings for movies, pay-per-view listings for movies, web site links related to movies, movie-related merchandise, movie news groups, movie chat groups, movie e-mail clubs, movie contests, movie trivia questions, movie actor interviews, movie reviews, movie channel package ordering, etc. ....*” (emphasis added) (Abstract).

With respect to the secondary cited reference, Robarts merely discloses “[an] *electronic program guide (EPG) organizes and presents programming information to the viewer and allows for creation of queries to facilitate both simple and complex searches of the programming information*. According to one aspect, the EPG is configured to *automatically identify programs that a viewer is likely to prefer*. The EPG *collects viewing preferences* of a viewer and, based upon [] these viewing preferences, *automatically develops queries* for identifying programs that the viewer is likely to want to watch. ....” (emphasis added) (Abstract).

With respect to the tertiary cited reference, Wilder merely discloses “... a device for acquiring *electronic program guide (EPG) data from a plurality of different EPG sources* (120), and *combining the acquired data to a single EPG* (10). At regular intervals, EPG data is acquired from different sources (120), which may include the Internet (122), digital programming broadcasters, and teletext service providers (126). *Equivalent program listings* (40) within the acquired EPG data are *identified*, and the best information is *selected* from the equivalent

program listings (40) *to be included in the combined EPG (10). ....”* (emphasis added) (Abstract).

Regarding the cited art, the Examiner concedes that “Ellis does not disclose ... detecting preliminary selection of a particular one of the discrete selectable audio/visual programs to provide a preliminarily selected audio/visual program; ... when a user selects the preliminarily selected audio/visual program, automatically taking a first predetermined action with respect to the preliminarily selected audio/visual program; ... when a user preliminarily selects a different one of the plurality of discrete selectable audio/visual program, automatically taking a second predetermined action with respect to the preliminarily selected audio/visual program, which second predetermined action is different than the first predetermined action; ... when a user takes an action with respect to the preliminarily selected audio/visual program, which action does not comprise either selecting the preliminarily selected audio/visual program or preliminarily selecting a different audio/visual program, automatically taking a third predetermined action with respect to the preliminarily selected audio/visual program, which third predetermined action is different than the first and the second predetermined action, ... wherein the step of automatically taking a first predetermined action comprises adding information regarding the preliminarily selected audio/visual program to a list of preferred items, ... wherein the step of automatically taking a second predetermined action comprises moving an area of visual focus away from the preliminarily selected audio/visual program, and ... wherein the step of automatically taking a third predetermined action comprises displaying the list of preferred items.” The Examiner further concedes that “Ellis does not disclose the user adding a particular television program to a list of favorites” and that “the combined teaching of Ellis and Robarts does not disclose wherein the plurality of discrete selectable audio/visual programs are embodied in a plurality of media.”

In contrast to the cited art, the present invention methods each involve the following features, *inter alia*: “providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user[,]” “wherein the plurality of cascading filters simultaneously considers content across the plurality of media,” and “automatically adding information corresponding to a particular one of the plurality of discrete selectable items of

audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time[.]” Nowhere in the cited art can any teaching, suggestion, motivation, or other obviation be found for combining the following claimed features: “providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user[,]” “wherein the plurality of cascading filters simultaneously considers content across the plurality of media,” and “automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time[.]” *inter alia*.

As such, the Applicants respectfully submit that the cited art does not teach, suggest, motivate, or otherwise obviate the combination of elements and limitations, *inter alia*, as respectively recited in herein amended independent Claims 1, 10, 15 and 16, the salient features being italicized as follows:

1. A method of using an interactive program guide, comprising the steps of:
  - providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable audio/visual programs;
  - displaying an interactive program guide comprising at least one of the characterizing descriptors as corresponds to a particular one of the discrete selectable audio/visual programs;
  - providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user;*
  - detecting preliminary selection of a particular one of the discrete selectable audio/visual programs to provide a preliminarily selected audio/visual program;
  - when a user selects the preliminarily selected audio/visual program, automatically taking a first predetermined action with respect to the preliminarily selected audio/visual program;
  - when a user preliminarily selects a different one of the plurality of discrete selectable audio/visual program, automatically taking a second predetermined action with respect to the preliminarily selected audio/visual program, which second predetermined action is different than the first predetermined action;
  - when a user takes an action with respect to the preliminarily selected audio/visual program, which action does not comprise either selecting the preliminarily selected audio/visual program or preliminarily selecting a different audio/visual program, automatically taking a third predetermined action with respect to the preliminarily selected audio/visual program, which third predetermined action is different than the first and the second predetermined action; and

*automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time,*

*wherein the plurality of discrete selectable audio/visual programs are embodied in a plurality of media,*

*wherein the plurality of cascading filters simultaneously considers content across the plurality of media,*

*wherein the step of automatically taking a first predetermined action comprises adding information regarding the preliminarily selected audio/visual program to a list of preferred items,*

*wherein the step of automatically taking a second predetermined action comprises moving an area of visual focus away from the preliminarily selected audio/visual program, and*

*wherein the step of automatically taking a third predetermined action comprises displaying the list of preferred items. [emphasis added]*

10. A method of providing an interactive programming guide, comprising the steps of:

providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/visual content;

providing an updatable list of preferred items of audio/visual content;

displaying an interactive programming guide comprising at least one of the characterizing descriptors;

*providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user;*

*providing an area of visual focus on a particular displayed one of the characterizing descriptors;*

*in response to a first signal, adding information regarding the discrete selectable item of audio/visual content as corresponds to the particular displayed one of the characterizing descriptors as is presently in the area of visual focus to the updatable list of preferred items of audio/visual content;*

*in response to a second signal that is different from the first signal, moving the area of visual focus to a different one of the characterizing descriptors;*

*in response to a third signal that is different from both the first signal and the second signal, displaying the updatable list of preferred items of audio/visual content; and*

*automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time,*

*wherein the plurality of discrete selectable items of audio/visual content are embodied in a plurality of media, and*

*wherein the plurality of cascading filters simultaneously considers content across the plurality of media. [emphasis added]*

15. A method of using an interactive program guide, comprising the steps of:

providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable audio/visual programs;

displaying an interactive program guide comprising at least one of the characterizing descriptors as corresponds to a particular one of the discrete selectable audio/visual programs;

*providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user;*

*detecting preliminary selection of a particular one of the discrete selectable audio/visual programs to provide a preliminarily selected audio/visual program;*

determining when the user selects the preliminarily selected audio/visual program by detecting when the user asserts a selection action at a time when a characterizing descriptor as corresponds to the preliminarily selected audio/visual program occupies, at least in part, a same portion of a display as a predetermined area of visual focus;

when a user selects the preliminarily selected audio/visual program, automatically taking a first predetermined action with respect to the preliminarily selected audio/visual program;

when a user preliminarily selects a different one of the plurality of discrete selectable audio/visual program, automatically taking a second predetermined action with respect to the preliminarily selected audio/visual program, which second predetermined action is different than the first predetermined action;

when a user takes an action with respect to the preliminarily selected audio/visual program, the action not comprising either selecting the preliminarily selected audio/visual program or preliminarily selecting a different audio/visual program, automatically taking a third predetermined action with respect to the preliminarily selected audio/visual program, which third predetermined action is different than the first and the second predetermined action; and

*automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time,*

wherein the characterizing descriptors as individually correspond to a plurality of discrete selectable audio/visual programs comprise at least one element selected from a group consisting essentially of a programming network identifier, a broadcast starting time, a description of audio/visual content as corresponds to the audio/visual program, and an audio/visual program media source,

*wherein the plurality of discrete selectable audio/visual programs are embodied in a plurality of media,*

*wherein the plurality of cascading filters simultaneously considers content across the plurality of media,*

wherein the step of automatically taking a first predetermined action comprises adding information regarding the preliminarily selected audio/visual program to a list of preferred items,

wherein the step of automatically taking a second predetermined action comprises moving an area of visual focus away from the preliminarily selected audio/visual program,

wherein the step of automatically taking a third predetermined action comprises displaying the list of preferred items, and

wherein the step of detecting preliminary selection of a particular one of the discrete selectable audio/visual programs further comprises detecting at least a predetermined relationship between a present position of one of the characterizing descriptors as corresponds to the particular one of the discrete selectable audio/visual programs and an area of visual focus. [emphasis added]

16. A method of providing an interactive programming guide, comprising:

providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/visual content;

providing an updatable list of preferred items of audio/visual content;

displaying an interactive programming guide comprising at least one of the characterizing descriptors;

*providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user;*

providing an area of visual focus on a particular displayed one of the characterizing descriptors;

in response to a first signal, adding information regarding the discrete selectable item of audio/visual content as corresponds to the particular displayed one of the characterizing descriptors as is presently in the area of visual focus to the updatable list of preferred items of audio/visual content;

in response to a second signal that is different from the first signal, moving the area of visual focus to a different one of the characterizing descriptors;

in response to a third signal that is different from both the first signal and the second signal, displaying the updatable list of preferred items of audio/visual content;

receiving at least one of the first signal, the second signal, and the third signal from a remote control device; and

*automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time,*

wherein the response to the third signal further comprises not displaying characterizing descriptors as correspond to items of audio/visual content that are not on the list of preferred items of audio/visual content,

*wherein the plurality of discrete selectable items of audio/visual content are embodied in a plurality of media, and*

*wherein the plurality of cascading filters simultaneously considers content across the plurality of media. [emphasis added]*

Consequently, Claims 2 and 8-12 now subsume the limitations of their respective base claims by dependency thereto.

Thus, the Applicants respectfully submits that Claims 1-2, 8-12, 15, and 16 have not been expressly or implicitly taught, suggested, motivated, or otherwise obviated by the cited art. Therefore, the Applicants respectfully request that the grounds for rejection of Claims 1-2, 8-12, 15, and 16 on this basis are withdrawn and that Claims 1-2, 8-12, 15, and 16 are passed to allowance in due course.

## II. Rejection of Claims 14 and 16 under 35 U.S.C. §103(a)

Claims 14 and 16 stand rejected, under 35 U.S.C. § 103(a), as being unpatentable over Ellis et al. (US 2004/0117831), in view of Robarts et al. (US 2005/0278741), and in further view of Wilder et al. (US 2003/0051246), and in further view of Olah et al. (US 2003/0005072). Independent Claim 16 is herein amended to include the following limitations: “providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user[,]” and “wherein the plurality of cascading filters simultaneously considers content across the plurality of media[.]” Dependent Claim 14 is herein canceled, without prejudice, thereby rendering moot its ground for rejection on this basis. The Applicants respectfully

traverse these grounds for rejection on this basis.

With respect to the primary cited reference, Ellis merely discloses “[a] system for providing *interactive television program guide features and other features and information related to a specific user interest or programming category in niche hubs* is provided. All of the television programming features provided by user television equipment that relate to a specific user interest or programming category may be accessed from the niche hub. For example, a movie lovers niche hub may provide *programming features such as television program listings for movies, video-on-demand listings for movies, pay-per-view listings for movies, web site links related to movies, movie-related merchandise, movie news groups, movie chat groups, movie e-mail clubs, movie contests, movie trivia questions, movie actor interviews, movie reviews, movie channel package ordering, etc. ....*” (emphasis added) (Abstract).

With respect to the secondary cited reference, Robarts merely discloses “[an] *electronic program guide (EPG) organizes and presents programming information to the viewer and allows for creation of queries to facilitate both simple and complex searches of the programming information*. According to one aspect, the EPG is configured to *automatically identify programs that a viewer is likely to prefer*. The EPG *collects viewing preferences of a viewer and, based upon [] these viewing preferences, automatically develops queries for identifying programs that the viewer is likely to want to watch. ....*” (emphasis added) (Abstract).

With respect to the tertiary cited reference, Wilder merely discloses “... a device for acquiring *electronic program guide (EPG) data from a plurality of different EPG sources (120), and combining the acquired data to a single EPG (10)*. At regular intervals, EPG data is acquired from different sources (120), which may include the Internet (122), digital programming broadcasters, and teletext service providers (126). *Equivalent program listings (40) within the acquired EPG data are identified, and the best information is selected from the equivalent program listings (40) to be included in the combined EPG (10). ....*” (emphasis added) (Abstract).

With respect to the quaternary cited reference, Olah merely discloses “[a] system and method for *monitoring computer usage* is disclosed. A *computer operator specifies discrete moments of a computer's usage at which screen captures are executed and saved to a log*. The operator, such as a parent or employer, *can later retrieve the screen images to provide a graphical record of the activities, such as that of their child or employees, on that computer. ....*” (emphasis added) (Abstract).

Regarding the cited art, the Examiner concedes that “Ellis does not disclose ... detecting preliminary selection of a particular one of the discrete selectable audio/visual programs to provide a preliminarily selected audio/visual program; ... when a user selects the preliminarily selected audio/visual program, automatically taking a first predetermined action with respect to the preliminarily selected audio/visual program; ... when a user preliminarily selects a different one of the plurality of discrete selectable audio/visual program, automatically taking a second predetermined action with respect to the preliminarily selected audio/visual program, which second predetermined action is different than the first predetermined action; ... when a user takes an action with respect to the preliminarily selected audio/visual program, which action does not comprise either selecting the preliminarily selected audio/visual program or preliminarily selecting a different audio/visual program, automatically taking a third predetermined action with respect to the preliminarily selected audio/visual program, which third predetermined action is different than the first and the second predetermined action, ... wherein the step of automatically taking a first predetermined action comprises adding information regarding the preliminarily selected audio/visual program to a list of preferred items, ... wherein the step of automatically taking a second predetermined action comprises moving an area of visual focus away from the preliminarily selected audio/visual program, and ... wherein the step of automatically taking a third predetermined action comprises displaying the list of preferred items.” The Examiner further concedes that “Ellis does not disclose the user adding a particular television program to a list of favorites” and that “the combined teaching of Ellis and Robarts does not disclose wherein the plurality of discrete selectable audio/visual programs are embodied in a plurality of media.”

In addition, the Examiner concedes that Ellis, even in view of Robarts, and even in further view of Wilder, does “not disclose further comprising: automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time.” The Examiner relies on Olah for its teaching regarding “monitoring a user’s activities.” The Applicants respectfully submit that Olah is actually *non-analogous art*. By its very title, “System and Method for Monitoring *Computer Usage*” (emphasis added), Olah does not teach, suggest, motivate, or otherwise obviate monitoring *television* usage. Further, citing an *inordinate number of references* in an attempt to arrive at the Applicants’ claimed invention, i.e., *four references* for this rejection, the evidence militates against their combination and indicated that the Examiner may have inadvertently engaged in impermissible hindsight reconstruction.

In contrast to the cited art, the present invention method of independent Claim 16 comprises the step of “automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time.” Nowhere in the cited art can any teaching, suggestion, motivation, or other obviation be found for combining the following claimed features: “providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user[,]” “wherein the plurality of cascading filters simultaneously considers content across the plurality of media,” and “automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time[.]” *inter alia*.

As such, the Applicants respectfully submit that the cited art does not teach, suggest, motivate, or otherwise obviate the combination of elements and limitations, *inter alia*, as recited in herein amended independent Claim 16, the salient features being italicized as follows:

16. A method of providing an interactive programming guide, comprising:
  - providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/visual content;
  - providing an updatable list of preferred items of audio/visual content;
  - displaying an interactive programming guide comprising at least one of the characterizing descriptors;
    - providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user;*
    - providing an area of visual focus on a particular displayed one of the characterizing descriptors;
    - in response to a first signal, adding information regarding the discrete selectable item of audio/visual content as corresponds to the particular displayed one of the characterizing descriptors as is presently in the area of visual focus to the updatable list of preferred items of audio/visual content;
    - in response to a second signal that is different from the first signal, moving the area of visual focus to a different one of the characterizing descriptors;
    - in response to a third signal that is different from both the first signal and the second signal, displaying the updatable list of preferred items of audio/visual content;
    - receiving at least one of the first signal, the second signal, and the third signal from a remote control device; and
      - automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time,*
      - wherein the response to the third signal further comprises not displaying characterizing descriptors as correspond to items of audio/visual content that are not on the list of preferred items of audio/visual content, and
        - wherein the plurality of discrete selectable items of audio/visual content are embodied in a plurality of media, and*
        - wherein the plurality of cascading filters simultaneously considers content across the plurality of media. [emphasis added]*

## CONCLUSION

Accordingly, independent Claims 1, 10, 15, and 16 have been herein amended; dependent Claims 13 and 14 has been herein canceled, without prejudice, to better encompass the full scope and breadth of the present invention, notwithstanding the Applicants' belief that the Claims would have been allowable as originally filed as well as herein amended. The Applicants respectfully reassert that no claim has been narrowed within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.* (Fed.Cir. November 29, 2000). Therefore, reconsideration of the present application in light of the foregoing amendment and these remarks is respectfully requested. *The Examiner is further cordially invited to telephone the undersigned for any reason which would advance allowance of the pending claims.* In the event that any additional fees become due or payable, the Examiner is authorized to charge USPTO Deposit Account No. 06-1135 accordingly.

Respectfully submitted,

Dated: 1/26/09

May Lin DeHaan  
May LinDeHaan  
Reg. No. 42,472  
Attorney for Applicant

Address all correspondence to:

Thomas F. Lebans  
FITCH, EVEN, TABIN & FLANNERY  
Suite 1600, 120 South LaSalle Street  
Chicago, Illinois 60603

Direct telephone inquiries to:

Thomas F. Lebans  
(805) 781-2865